

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

June 12, 2008

Call To Order: Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Tim Hodson, Gene Huguenin, and Bob Leidigh were present.

- 1. Public Comment.** This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

Tim Raboy, Galt City Councilman, asked when he and other people in the audience could comment on Agenda Item 6 of the consent calendar. Chairman Johnson informed him he could speak on that item when the Commission reached the proposed consent calendar.

Before moving on, Chairman Johnson announced Agenda Item 4 was being removed from the proposed consent calendar at the request of Commissioner Leidigh.

The Chairman then advised that anyone wishing to comment on Agenda Item 6 could proceed. Several members of the audience spoke on this matter: Tim Robody, who said he was speaking as a citizen of California and not as Galt City Councilman, Joanne Walters, Rick Walters, Rob Seeley, Robert Crowdy and Kathleen Amos. They commented against the respondents in this matter, and requested the Commission to reject the proposed settlement and impose the maximum penalty of \$45,000.

At the conclusion of the speakers, Chairman Johnson moved to the proposed consent calendar, with the exclusion of Agenda Item 4.

- 2. Approval of the May 19, 2008, Commission meeting minutes.**

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve the minutes as submitted.

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 4-0.

- 3. In the Matter of Tim Ward, FPPC No. 05/652.** Staff: Staff Counsel IV Melodee A. Mathay and Investigator III Sandra Buckner. Respondent Tim Ward is a member of the City of Lafayette Design Review Commission (the "DRC"). Respondent is also an architect, with ownership interest in Ward-Young Associates, an architectural planning and design company doing business in Lafayette. On or about May 18, 2005, Respondent Ward, as a member of the Lafayette DRC, participated in making

a governmental decision, which had a material financial effect on his source of income, Ward-Young Architects, in violation of Government Code Section 87100 (1 count).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$3,000 monetary penalty.

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

- 5. In the Matter of Californians for Election Accountability, No on 62, and Vona Copp, FPPC No. 04/577.** Staff: Commission Counsel Margaret Figeroid and Investigator Rodolfo Garza. Respondent Californians for Election Accountability, No on 62 ("Committee") was a primarily formed ballot measure committee sponsored by the California Republican Party. At all relevant times, Respondent Vona Copp was the treasurer of Respondent Committee. In this matter, Respondents failed to amend Respondent Committee's statement of organization to disclose its sponsor and to include the name of its sponsor in Respondent Committee's name, in violation of Government Code Sections 84102, subdivisions (a) and (b), and 84103, subdivision (a) (1 count); and failed to include the name of Respondent Committee's sponsoring organization in Respondent Committee's name on numerous required campaign statements and reports filed, in violation of Government Code Section 84106 (1 count).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of two counts and a \$5,000 monetary penalty.

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

- 6. In the Matter of Galt Economic Development Task Force, Businesses United for Good Government and Rex Albright, FPPC Nos. 04/103 & 07/687.** Staff: Commission Counsel Angela Brereton and Investigator III Leon Nurse-Williams. Respondent Galt Economic Development Task Force ("Respondent Task Force") was a general purpose committee. Respondent Businesses United for Good Government ("Respondent BUGG") is a general purpose committee. At all times relevant, Respondent Rex Albright served as the treasurer for both committees. In this matter, Respondents Task Force and Albright failed to disclose receiving three late contributions totaling \$15,000, in violation of Government Code Section 84203 (3 counts), and failed to disclose making two late contributions totaling \$6,969, in violation of Government Code Section 84203 (2 counts). Proposed penalty Respondents Task Force and Albright: \$23,000. Additionally, Respondents BUGG and Albright failed to disclose receiving three late contributions totaling \$7,969, in violation of Government Code Section 84203 (3 counts), and failed to disclose making a late contribution totaling \$5,000, in violation of Government Code Section 84203 (1 count). Proposed penalty Respondents BUGG and Albright: \$16,000.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of nine counts and a \$39,000 monetary penalty.

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

- 7. In the Matter of Chike Echezona, FPPC No. 06/0593.** Staff: Political Reform Consultant Wayne Imberi. Chike Echezona, Workers' Compensation Compliance Officer for the Department of Industrial Relations, failed to timely file his 2005 annual statement of economic interests in violation of Government Code section 87300 (1 count).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$100 monetary penalty.

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

- 8. In the Matter of Master Plan Developments Inc., FPPC No. 07/557.** Staff: Chief Investigator Sue Straine and Political Reform Consultant Teri Rindahl. Failure to file a late contribution report in violation of Government Code Section 84203. Master Plan Developments Inc., of Dana Point, failed to timely disclose one late contribution totaling \$10,000 (1 count).

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

- 4. In the Matter of Gregory C. Hill, Greg Hill for Assembly '05, and Betty Presley, FPPC No. 06/1163.** Staff: Staff Counsel IV Melodee A. Mathay and Investigator II Elaine Olmos-Flores. Respondent Gregory C. Hill was a candidate for the California State Assembly in the September 13, 2005 special primary election for the 53rd Assembly District. Respondent Greg Hill for Assembly '05 (the "Committee") was the controlled committee of Respondent Hill, and Respondent Betty Presley was the Committee's treasurer. In this matter, Respondents accepted a loan in excess of the \$3,300 contribution limits in July 2005, in violation of Government Code Section 85301, subdivision (a) (2 counts), and failed to properly report the source of a \$20,000 loan on a first pre-election campaign statement, in violation of Government Code Section 84211, subdivision (g) (1 count).

Commissioner Leidigh had questions regarding mitigation issues in this matter, which Ms. Mathay explained.

Moved by Commissioner Hodson and seconded by Chairman Johnson to approve a Stipulation, Decision and Order finding a violation of three counts and an \$8,500 monetary penalty.

AYES: Commissioners Huguenin, Hodson, and Chairman Johnson.

NOES: Commissioner Leidigh.

The motion passed 3-1.

9. Approval of New Gift to Agency Form. Staff: Technical Assistance Division Chief Carla Wardlow and Senior Counsel Hyla Wagner. Staff requested approval of new Form 801 (Gift to Agency Report). The form will be used by state and local government agencies to disclose payments received by the agency when the payments provide a personal benefit to an official of the agency. Agencies must file the report under newly adopted Regulation 18944.2.

The Chairman asked if anyone in the audience had comments on this item. There were none.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve the form as amended at No. 3. Payment Information, to read: “. . . Provide a specific description of the nature and use of the payment for official agency business: . . .”

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 4-0.

10. Adoption Discussion of Proposed Regulation 18946.6 - Reporting and Valuation of Gifts: Air Transportation. Staff: Assistant General Counsel John W. Wallace and General Counsel Scott Hallabrin. The Act places certain restrictions on the receipt of gifts by public officials, including gift limits. In order to implement these requirements, the Commission has adopted a series of rules concerning valuation of gifts. Proposed Regulation 18946.6 provides a valuation method for free air transportation on commercial aircraft and noncommercial aircraft, as defined in the regulation.

Chairman Johnson asked if anyone in the audience had comments for or against this item. There were none.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson to adopt the regulation as proposed by staff, except to amend subdivision (b) by adding clarifying language at line 9, and also by splitting proposed paragraph (b)(1) into two separate subdivisions so that the pertinent part of subdivision (b) would read as follows:

“(b) . . . of all of the following persons that share the same flight:

(1) ‘Designated employees’ as defined in Section 82019.

(2) Public officials specified in Section 87200.

(3) Members”

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

11. Prenotice Discussion of Proposed Regulation 18530.45 - Legal Defense Funds for Local Candidates and Officers. Staff: Commission Counsel Emelyn Rodriguez and General Counsel Scott Hallabrin. The proposed regulation interprets new Government Code Section 85304.5, allowing local candidates or elected officers to raise legal defense funds and establish legal defense committees. The regulation is similar in several respects to Regulation 18530.4, which was approved by the Commission in December 2007 and governs legal defense funds and committees for state candidates and officers. However, the proposed regulation differs from Regulation 18530.4 by allowing local government agencies, under specified circumstances, to tailor their rules to local requirements or their existing campaign ordinances.

Chairman Johnson asked if anyone in the audience had comments for or against this item. There were none.

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve publication of notice for adoption as amended at page 1, line 18, subdivision (b)(2), to read: "A local government agency may impose different requirements, including a contribution limit, on a legal defense account and its legal defense committee maintained by a candidate or officer in its jurisdiction if its requirements regarding establishment of the committee, recordkeeping and reporting are at least as strict as those provided in subdivisions (c), (e), and (f) of this regulation."

AYES: Commissioners Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 4-0.

12. Prenotice Discussion of Amendments to Regulation 18946.4 – Tickets to Nonprofit Fundraising Events. Staff: Commission Counsel William J. Lenkeit and General Counsel Scott Hallabrin. The Commission is considering amendments to the gift regulation concerning tickets to fundraising events for nonprofit and political fundraisers. The proposed amendments would eliminate the "no value" rule for tickets to fundraising events for 501(c)(3) organizations and propose a rule for all nonprofit events that would treat the value of the actual benefit received, as determined by I.R.S. rules, as a gift. The proposed amendments would also expand the "no value" rule for tickets to California state and local political fundraisers to fundraisers for federal committees that hold fundraising events in California.

Chairman Johnson asked if anyone in the audience had comments for or against this item. There were several speakers with comments opposing this regulation: Hugh Bower with Emmanuel, Jones and Associates, representing the City of San Marcos; Michael Martello, Mountain View City Attorney, representing the City Attorneys Department of the California League of Cities; and Michelle Beal Bagneris, Pasadena City Attorney.

Moved by Commissioner Huguenin and seconded by Commissioner Hodson to approve notice for adoption of proposed amendments as recommended by staff.

AYES: Commissioners Huguenin, Hodson, and Chairman Johnson.

NOES: Commissioner Leidigh.

The motion passed 3-1.

13. Prenotice Discussion of the Repeal and Readoption of Regulation 18944.1 and Adoption of Regulation 18944.3 – Gifts of Tickets to Government Agencies/Gifts from an Official’s Own Government Agency. Staff: Commission Counsel William J. Lenkeit and General Counsel Scott Hallabrin. Staff proposed the repeal and readoption of Regulation 18944.1, regarding gifts of tickets to government agencies and the adoption of Regulation 18944.3, regarding gifts from an official’s own government agency. The proposed readoption of Regulation 18944.1 would eliminate many of the exceptions to the gifts rules regarding tickets given to an agency and implement narrowly tailored exceptions that are limited to tickets that are used in conjunction with some identified public purpose. Regulation 18944.3 provides that a payment made by a governmental agency that provides food, beverages, entertainment, goods or services of more than a nominal value to an official of that agency is a gift to that official unless the payment is a lawful expenditure of public funds.

After discussion by the Commissioners, the Chairman asked if anyone in the audience had comments for or against this item.

Michael Martello, Mountain View City Attorney, representing the City Attorneys Department of the California League of Cities; Michele Beal Bagneris, Pasadena City Attorney; and Patricia Deignan, Chief Deputy City Attorney, City of San Jose, had comments and concerns regarding these regulations.

This item was tabled. Staff was directed to schedule one or more interested persons meetings before the August Commission meeting, and bring the regulations back for prenotice consideration at the August meeting.

14. June 2008 Work Plan Revisions. Staff: Assistant General Counsel John W. Wallace and General Counsel Scott Hallabrin. Staff discussed revisions to the 2008 regulatory calendar.

As submitted.

15. Legislative Report. Staff: Government Affairs Director Whitney Barazoto.

As submitted.

16. Litigation Report. Staff: General Counsel Scott Hallabrin.

As submitted.

17. Executive Director’s Report. Staff: Executive Director Michael B. Salerno.

As submitted.

18. Chairman's Report. Chairman Ross Johnson.

Chairman Johnson thanked the Technical Assistance staff and IT staff for their great work posting the independent expenditures of the key legislative races to the FPPC website over the past several weeks.

He announced with the adoption of the new Enforcement regulations, as of May 28, 2008, for the first time in the history of the FPPC, a person who is complained of in a sworn complaint will receive a copy of the complaint within three working days after receipt.

Chairman Johnson, also, advised there would be no Commission meeting in July and the next meeting would be in August.

The Chairman recessed open session at 12:15 p.m. and advised the Commission would immediately convene in executive session.

At 1:30 p.m. the Commission reconvened in open session, and the Chairman advised there was no reportable action in executive session.

There being no further business before the Commission, Chairman Johnson adjourned the meeting at 1:31 p.m.

Dated: June 19, 2008

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved: _____
Ross Johnson
Chairman